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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,608	02/06/2004	Michael G. Fisher	021976-000200US	7771
20350 TOWNSEND	7590 01/24/200 AND TOWNSEND AN	EXAMINER		
TWO EMBAR	CADERO CENTER	HOFFMAN, MARY C		
EIGHTH FLOO SAN FRANCIS	OR SCO, CA 94111-3834	ART UNIT	PAPER NUMBER	
			3733	
			MAIL DATE	DELIVERY MODE
•		•	01/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CER 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any searned patent term adjustment. See 37 CFR 1.704(b).  Status  1)  Responsive to communication(s) filed on 10/29/2007.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-7.9-13.16-29.31-41 and 116-119 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are objected to.  8) Claim(s) is/are objected to by the Examiner.  10) The drawing(s) filed on 2/6/04.4/12/06 is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).			H					
Examiner   Mary Hoffman   3733		Application No.	Applicant(s)					
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The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the positions of 37 CFR 1:1301, in an event, however, may a reply the timely filed  If NO period for reply is appecified above, the maximum statutory period will apply and will expire SIX (50 MONTHS from the mailing date of this communication. Failure for reply will not set or excluded period for reply will, by statuke, capte are explication and reply and the provision of the communication of the maximum statutory priorid will apply and will expire SIX (50 MONTHS from the mailing date of this communication. Failure for reply will mist set or excluded period for reply will, by statuke, capte are the epipication of CSU SCI. 51:33). Any reply received by the Office laser than these months after the mailing date of this communication, even if timely titled, may reduce any secure specific and the communication of the communication of the communication is provided by the secure of the communication is provided by the communication is provided by the communication is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1.7.9-13.16-29.31-41 and 116-119 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) Claim(s) 1.7.9-13.16-29.31-41 and 116-119 is/are rejected.  7) Claim(s) is/are allowed.  6) Claim(s) 1.7.9-13.16-29.31-41 and 116-119 is/are rejected.  7) Claim(s) 1.5.9-31.41 and 116-119 is/are rejected.  8) The drawing(s) filed on 2/6/04.41/2/06 is/are: a) accepted or b) Objected to by the Examiner.  Application Papers  9) The drawing(s) filed on 2/6/04.41/2/06 is/are: a) accepted o	Office Action Summary	Examiner	Art Unit					
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#### **DETAILED ACTION**

#### Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/29/2007 has been entered.

# Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification should recite the terminology "substantially right angles" and point out where these angles are found in the drawings.

## Claim Objections

Claims 1-7, 9-13, 16-29, 31-41 and 116-119 are objected to because of the following informalities:

In claim 1, the claim recites "said at least one posterior condylar member being disposed at substantially right angles..." It is noted that the claimed condylar portions

(plural) are disposed at angles (plural), but the recitation that the condylar member (singular) is disposed at angles (plural) as currently recited in the claims is confusing.

Claims 11-13 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitations of claim 11 are already found in independent claim 1.

Appropriate correction is required.

## Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7, 9-13, 16-29, 31-41 and 116-119 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "<u>at least one</u> posterior condylar member" in line 10.

There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "<u>at least one</u> posterior condylar member" in line 5.

There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "<u>at least one</u> posterior condylar member" in line 1.

There is insufficient antecedent basis for this limitation in the claim.

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Claim 119 recites the limitation "<u>at least one</u> posterior condylar member" in line 2.

There is insufficient antecedent basis for this limitation in the claim.

## Allowable Subject Matter

Claims 1-7, 9-13, 16-29, 31-41 and 116-119 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and specification/claim objections, set forth in this Office action.

## Response to Arguments

The rejections set forth in the office action mailed 10/16/2007 have been withdrawn in view of Applicant amendments filed 10/29/2007.

#### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Hoffman whose telephone number is 571-272-5566. The examiner can normally be reached on Monday-Friday 9:00-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10/773,608 Art Unit: 3733

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCH

EDINALA DOTESTO DE SENTENCIONES